TRB:mdb 03-206 9/17/03

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

GEORGE GUINDON, et al,
Plaintiffs,

vs. C. A. No: 03-335L

AMERICAN FOAM CORPORATION, et al,
Defendants

DEFENDANT TRITON REALTY LIMITED PARTNERSHIP'S OBJECTION TO MOTION TO DISMISS FOR LACK OF JURISDICTION

Now comes defendant, Triton Realty Limited Partnership, to object to the following motion:

1. Defendants Jeffrey Derderian, Michael Derderian, and DERCO's Motion to Dismiss Plaintiffs' Complaint for Lack of Jurisdiction Pursuant to Fed. R. Civ. P. 12(b)(1).

Defendant submits the accompanying memorandum in support of its Objection to the motion.

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DEFENDANT TRITON REALTY LIMITED PARTNERSHIP'S MEMORANDUM IN SUPPORT OF OBJECTION TO MOTION TO DISMISS FOR LACK OF JURISDICTION

Introduction

Defendants Jeffrey Derderian, Michael Derderian, and DERCO have moved to dismiss this action asserting the Court has no subject matter jurisdiction under 28 U.S.C. §1369. The memorandum of law and the arguments therein in support of their motion to dismiss are identical in all material respects to the memorandum filed, and arguments made, by the DERCO defendants in *Passa v. Derderian*, C.A. No. 03-148L. Triton filed an objection and supporting memorandum in *Passa* addressing DERCO's motion and memorandum and incorporates that memorandum and its arguments here, rather than repeating them in a separate virtually identical memorandum.

Conclusion

For all the reasons set forth in its *Passa* memorandum of law, Triton respectfully asserts this Court has jurisdiction and there are no grounds warranting abstention. This Court should deny any motion to abstain or dismiss, and retain jurisdiction over this action.

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